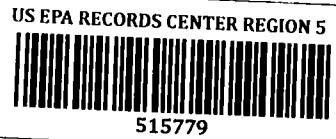


Hearing on Motions Re
Reilly Tar + Chem. Co.
5/4/83

DR. Katruvo & VVA
were invited



State + federal motion to deny demand for
jury trial
D motion to quash answer

Shawman

- state's motion to deny j. trial because of not timely (38)(6)
- 4/20/83 joint brief has chronology
- D answer due on 4/7 but was 10 days late
- jury demand due :- on 4/17
- 10/1/83 jury trial request

Hind

- small comment

Hind : argument in support of Motion to Quash

Schwartz baner :

Curtis v Lawlor says jury trial is ok

45 is the heart of the lawsuit (107)

3/29/83

Leilty Twp Petrial

Judge Boline MN

- RT has an counter claim against SCP
Phillips has cross claim against R.T., HRA
TCF " " " " HRA
BP Village Association " " HRA
- RT demanded a jury trial & U.S. intends to quash all claims for jury trial under 7th Amendment
- E. Schwartz, Esq. says settlement is possible
- toward end of discovery we can have a settlement conference w/ Judge Magnusson if we want to contact his calendar clerk
- no pending motions
- E.S. wants to file the amended answer but still objects : contract being ready for a hearing on the motion
- ~~4/1/84~~^{5/1/84} cutoff of all discovery
- he will hear all non-dis
- so late than 4/2/84
- RT says possible 3rd party : cutoff of discovery
3rd party actions 1/1/83
- Magnusson will hear all dispositive motions no later than 6/1/84
- " will try the case after all dispositive
- Judge Magnusson will be able to set down for 3 month straight : any date would be tentative
- these dates will be in a written order
- Oak Park Village Assoc. (Owner of property) \rightarrow possible monitoring
- Court will rely on and concentrate

CC: ~~Ward~~ Ward Latta

A copy of our report to the Magistrate is attached
hereto.

The end of business we can have a meeting
tomorrow with Judge Magruder if we want.
We'd better wait until 6/84. We do not think it
would be wise to get Judge Magruder to give us a further
date and he said that the best is to send the notice
from Defendants Office. We asked to be given a trial
date but we are not yet given a date.

Magnussen to know all subsequent motions

6/1/84 will be the cut-off date for Judge

McLellan's action to file a motion for judgment notwithstanding the verdict.

4/8/84 will be the cut-off date for the hearing
of all other motions.

5/1/84 will be the cut-off date for all discussions
by the members of the panel concerning
the necessary procedure.

DATE: 3/30/83

SUGS: Feilig Tol Re-trial Conference

REB:

TE: Loser M. Barnes

TRIP REPORT TO MPCA OFFICES

DATE 2/21/83

QB 2/21/83

PARTICIPANTS: PAUL BITTER, BOB LEININGER, USEPA; DAVID HIRD,
DOJ; STEVE SHACKMAN, DENNIS COYNE, MPCA AG; MICHAEL HANSEL
MPCA HR OLAF PHANCUCHT, UNIV. OF MINNESOTA
MARC HULT USGS

DISCUSSION: Professor Phancuch was interviewed by the panel to ascertain his technical expertise in the field of chemical migration of coal tar derivatives from the Reilly Tar site into the ground water. Phancuch has been studying the fluid mechanics and chemical transport of contaminants at the site and is being considered for an expert witness for the Court case. His job would be to prove the contaminants are migrating from the site into a drinking water aquifer and thus, present a public health threat. Phancuch wished to perform some more experimental work at the site to provide more data and certainty to his model.

This point is being discussed further between the panel members. The lawyers are considering whether Phancuch may exhibit a conflict of interests since he has worked for the State previously.

Other discussions involved the amount of work Marc Hult of the USGS is to perform to provide Reilly Tar with more data that they requested. DAVID HIRD of the DOJ has promised material to Reilly Tar that is to be provided by Marc Hult. Thus, the governmental

agencies are in the position of being indebted to Reilly Tar
for based on a ~~guarantee~~^{Commitment} of made by DOT to Reilly Tar.
This is unacceptable and will not occur in the future.
The Reilly Tar and Chemical Company is 5 months overdue with
their submittal of a comprehensive Work plan for remedial action at
the site.

Action: I must discuss with the lawyers the utility of
Dr. Olaf Plomuel on the Reilly case and if he is
chosen as an expert witness I will secure his services through
a TDD w/ rem-FIT contract mechanism. This will occur
before March 14, 1993

cc Leininger SRC

①

Reilly Tar Operations

- estimated strength of \$10 - 50 million but closed corporation
- operated from 1917 to 1972 on 80 acre site in SLP, Minnesota
- coal to distilling and wood preserving
- coal by rail into distillation system
- products to storage tanks or wood preserving operation
- stored lumber
- sources of pollution
 - ① wet cut
 - ② condenser cooling water
 - ③ still cleaning water
- (5,000 gal / day from creosoting plant)
- (10,000 gal / min from refinery)
 - also stormwater runoff
 - by ditch to S of site (4 acres)
 - 1960's straw filter

Same field
MPA

Pollution

- 15 acres of seal on S of site
- contaminated hydrocarbon layer (30-50' depth)
- glacial drift (60'-80' depth soil)
- 100,000 people use water
 - Praia da Chica Tuba (80%) & unsealed wells
- 2 deeper aquifers w/ contamination
 - around to be in area of W-23
- gradient is east
- 2 1/4 mile radius

Studies:

- 1933 to 1976 phenols 1469 phenols in water wells
- 1974 SLP contracted to unseal wells
- 1975 Barn report areas affected

(~~10 + 15 = 1/2 mile N~~ → 1978
~~4 = 1 1/2 miles S~~ → 1979
~~5 = 1/2 mile E~~ → 1980)

Contacts w/ Defendant

(P.S. 000)

- 11/24/80 Reilly proposes drilling + sampling of W-23 w/ split by feds + state
12/8/80 Verbal offer of one million made to U.S. Attorney
ERT authorized USATTY to request Reilly to do
1.) investigate W-23 + 115
2.) " all other wells
3.) " manu. well 15
4.) " plot plan for treatment @ W-15
- 2/25/81 U.S. ATTY letter to Reilly (SF)
3/3/81 Reilly declined (no NCP) (with appropriate or necessary)
3/27/81 Reilly declined states demand made on 1/20/81
5/1/81 Reilly expresses a ~~desire~~ desire to set up protocol for determining the quality of the finished water
- 5/1/81 Reilly files notification of HW site (S103(c))
6/3/81 Reilly requests work plan to comment + assist upon
8/17/81 Demand for \$200,000 given to state for cleanup (SF letter)
9/9/81 Reilly declines superfund demand
10/7/81 Reilly distributes copy of ERT
- mixture of PAH
- PAH are ubiquitous
- technical constraint
- some comments on the Hickok report
- U.S. ATTY rep.
11/12/81 Shatman said he'd send K log gauge for W-23
12/4/81 Reilly response says Sugar Beet well was plugged
state says if no response from Reilly by 1/11/82 the K will go out
12/29/81 Reilly submits proposal for cleanup of W-23
1/7/82 ERT comments on Hickok report
- correction/treatment is OK
- better define levels of PAH
- interim cap isn't needed
- 5/10/82